

1990 WL 53282

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United States District Court, N.D. Illinois, Western  
Division.

PEOPLE WHO CARE, et al., Plaintiffs,  
v.

ROCKFORD BOARD OF EDUCATION SCHOOL  
DISTRICT # 205, et al., Defendants.

No. 89 C 20168. | April 10, 1990.

#### Attorneys and Law Firms

Robert C. Howard, Hartunian Futterman & Howard,  
Chicago, Ill., for plaintiffs.

Thomas A. Bueschel, Conde, Stoner & Killoren,  
Rockford, Ill., Anthony Scariano, Scariano, Kula, Ellch &  
Himes, Chicago Heights, Ill., for defendants.

Stephen G. Katz, Katz, Friedman, Schur & Eagle,  
Chicago, Ill., for intervenor Kockford Education  
Association.

#### Opinion

#### ORDER

ROSZKOWSKI, District Judge.

\*1 This matter comes before the court on Plaintiffs' motion for reconsideration of the court's order regarding Plaintiffs' petition for attorney's fees. For the reasons set forth herein, the court denies Plaintiffs' motion to reconsider. The court allows Plaintiffs reimbursement for the expenses incurred in securing expert witnesses. Finally, Defendants are hereby ordered to make a prompt payment of the interim fee award in the amount of \$112,935.50 and costs in the amount of \$18,514.65.

#### BACKGROUND

On February 23, 1990, this court issued an order with respect to Plaintiffs' petition for an interim award of attorney's fees. The court found that Plaintiffs were entitled to an interim award of attorney's fees and costs despite strong opposition from Defendants. The court determined a lodestar amount<sup>1</sup>, following applicable legal guidelines, that it found to be reasonable under the

circumstances of this particular case. The court denied, however, any enhancement of the lodestar amount.

Plaintiffs now move this court for reconsideration of the interim award of attorney's fees. Plaintiffs ask this court to reinstate the hours of Attorney Robert Howard that were disallowed, reinstate the hourly rates requested by Plaintiffs' attorneys, issue a revised opinion and order concerning Attorney Howard's hours and experience, award an interim lodestar fee without reduction of the lodestar for any reason, award reimbursement to Plaintiffs for the expense of expert witnesses and order Defendants to make a prompt payment of the interim award of fees and costs.

#### DISCUSSION

The court denies Plaintiffs' motion for reconsideration of the number of hours allowed by Attorney Robert Howard. The court believes that the hours allowed are reasonable, reflecting what this court finds is a reasonable amount. The court further finds that the reduction of hours is in this court's discretion and in line with applicable legal standards. *See*, February 23, 1990 order at 4–7. The court rejects Plaintiffs' invitation to examine the number of hours Defendants' attorneys spent in this case. The court is not called upon to make a determination with regard to the reasonableness of Defendants' attorney's claimed number of hours. The court need only make a determination as to the reasonableness of Plaintiffs' attorneys' hours.

The court does note, however, that it did not wish in any way to give the impression that it was challenging or attacking the integrity of Attorney Robert Howard. On the contrary, the court has nothing but the highest regard for Mr. Howard. The court does not question Mr. Howard's honesty in the number of hours he spent in this matter, but only the reasonableness of those hours when viewed in the context of this case. Therefore, the court simply exercised its discretion in its February 23, 1990 order by reducing Mr. Howard's hours to reflect what the court found to be a more reasonable amount. *See, e.g., Chrapliwy v. Uniroyal, Inc.*, 670 F.2d 760, 765 (7th Cir.1982), *cert. denied*, 461 U.S. 956 (1983), stating that a district court must use his experience in deciding whether the requested number of hours were reasonably expended.

\*2 The court also denies Plaintiffs' motion for reconsideration of the hourly rate allowed Plaintiffs' attorneys. Again, the court believes that it has properly exercised its discretion in reducing the requested rates to a reasonable hourly rate. As with the number of hours found to be reasonably expended, the court has used the

popular *Johnson* factors as well as the United States Supreme Court's *Hensley* factors in determining what constitutes a reasonable hourly rate. *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714, 717-719 (5th Cir.1974); *Hensley v. Eckerhart*, 461 U.S. 424 (1983).

The court further denies Plaintiffs' motion for a revised opinion and order concerning Attorney Howard's hours and experience. The court believes that the above clarification is sufficient in this matter and, beyond that, the court stands on its original order.

In this court's February 23, 1990 order, the court left open the question of whether Plaintiffs should be allowed to recover the amount claimed as expenses for expert witnesses. The court asked Plaintiffs to submit a satisfactory explanation showing that the amount claimed was reasonably incurred. Plaintiffs have submitted such an explanation. Accordingly, the court grants Plaintiffs' motion for reimbursement of the costs expended in order to secure expert witnesses. Plaintiffs are allowed to recover \$3,749.11 for monies expended for the consultative services of the two expert witnesses.

Footnotes

- 1 The lodestar amount was calculated by multiplying a reasonable hourly rate by a reasonable number of hours.
- 2 The court's February 23, 1990 order allowed Plaintiffs to recover \$14,765.54 in costs. Added to this amount is the \$3,749.11 allowed in this order for expert witnesses expenses.

Finally, the court hereby orders Defendants to make a prompt payment of the interim award of fees and costs to Plaintiffs' counsel in line with the court's February 23, 1990 order. Defendants are ordered to pay Plaintiffs a total of \$112,935.50 in attorney's fees and \$18,514.65 in costs.<sup>2</sup>

**CONCLUSION**

For the reasons set forth herein, the court denies Plaintiffs' motion to reconsider. The court allows Plaintiffs reimbursement for the expenses incurred in securing expert witnesses. Defendants are hereby ordered to make a prompt payment of the interim fee award in the amount of \$112,935.50 and costs in the amount of \$18,514.65.